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**Committee against Torture**

## Consideration of reports submitted by States parties under article 19 of the Convention

### Fifth periodic report due in 2012

## China* **

[20 June 2013]

* The present report submitted by China will be supplemented by the reports of the Hong Kong and Macao Special Administrative Regions of China. China's fourth periodic report (CAT/C/CHN/4) was considered by the Committee at its 844th and 846th meetings, held on 27 April and 6 May 2009 (CAT/C/SR.844 and 846). For the Committee's consideration of the report, see document CAT/C/CHN/CO/4.

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# Sixth report of the People's Republic of China on its implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

## Part I: Implementation of the Convention by the central Government

# Contents


| | | *Paragraphs* | *Page* |
|---|---|---|---|
| | Foreword | 1–4 | 4 |
| 1. | New measures taken and progress made in implementing the Convention | 5–100 | 5 |
| | Article 1 (Definition of torture) | 5 | 5 |
| | Article 2 (Legislative, administrative and judicial measures to prevent torture) | 6–33 | 5 |
| | Article 3 (Expulsion, repatriation, extradition) | 34–35 | 12 |
| | Article 4 (Conviction and sentencing standards) | 36–38 | 12 |
| | Article 5 (Territorial and personal jurisdiction) | 39 | 13 |
| | Article 6 (Measures taken regarding torturers) | 40–45 | 13 |
| | Article 7 (Fair treatment in extradition or prosecution) | 46 | 15 |
| | Article 8 (Extradition treaties) | 47 | 15 |
| | Article 9 (Judicial assistance in criminal matters) | 48 | 17 |
| | Article 10 (Education and training) | 49–55 | 21 |
| | Article 11 (Review of related mechanisms and measures) | 56–67 | 23 |
| | Article 12 (Investigation of acts of torture) | 68–74 | 25 |
| | Article 13 (Appeals/complaints) | 75–78 | 27 |
| | Article 14 (Redress and compensation) | 79–87 | 27 |
| | Article 15 (Inadmissibility of confessions made under torture) | 88–93 | 30 |
| | Article 16 (Inhuman treatment) | 94–100 | 31 |
| 2. | Supplementary information related to the concluding observations and recommendations of the Committee in connection with its review of the fourth and fifth reports of China | 101–113 | 33 |

Annexes*

Annex 1: Items in past reports on China's implementation of the Convention remaining effective

Annex 2: Criminal Procedure Law of the People's Republic of China, as amended in 2012


* Annexes may be consulted in the document archives of the Secretariat.

## Foreword

1. The present report is the sixth report submitted by the People's Republic of China in accordance with the provisions of article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter referred to as "the Convention").

2. The Report is divided into three Parts. Part I was prepared by the central Government of China, and Parts II and III were prepared respectively by the governments of the Hong Kong and Macao Special Administrative Regions of China; each Part provides an account of the implementation of the Convention in the areas under their respective jurisdictions.

3. China submitted its first report on implementation of the Convention (CAT/C/7/Add.5) in December 1985, with a supplementary report (CAT/C/7/Add.14) submitted in October 1992; its second report (CAT/C/20/Add.5) was submitted in November 1995; its third report (CAT/C/3/9/Add.2) was submitted in April 1999; and its joint fourth and fifth reports (CAT/C/7CHN/4) were submitted in January 2006.

4. China's previous reports have provided detailed descriptions of the laws and regulations, policies and measures, and specific practices it has implemented in application of the Convention. When the Committee against Torture (hereinafter referred to as "the Committee") was considering China's joint fourth and fifth reports in 2008, the head of the Chinese Government delegation provided the Committee with a brief account of China's fulfilment of its obligations under the Convention during the period from 2005 to 2007; Part I of the present report, while again summarizing information related to the 2005–2007 period, nevertheless focuses primarily on new measures taken and progress made by China in fulfilment of its obligations under the Convention since 2008. Moreover, because the Chinese Government submitted its "Comments on the Concluding Observations and Recommendations of the Committee against Torture" (CAT/C/CHN/C0/4/Add.1) and its "Response to the Concluding Observations of the Committee against Torture" (CAT/C/CHN/C0/4/Add.2) in December 2008 and November 2009 respectively, containing detailed feedback on the Committee's concluding observations on China's joint fourth and fifth reports, only supplementary feedback is provided in the second section of Part I of the present report.

# 1. New measures taken and progress made in implementing the Convention

## Article 1
## (Definition of torture)

5. Paragraph 38 of China's first report remains effective.

## Article 2
## (Legislative, administrative and judicial measures to prevent torture)

6. Paragraphs 64, 65, 67, 70 and 71 of China's supplementary report, paragraph 7 of its second report, and paragraphs 6 through 13 and 15 and 16 of its joint fourth and fifth reports remain effective. Since the submission of the joint fourth and fifth reports in 2005, China has taken further effective legislative, administrative and judicial measures to prevent the occurrence of acts of torture.

7. The Narcotics Control Law of the People's Republic of China was adopted at the 31st meeting of the Standing Committee of the Tenth National People's Congress on 29 December 2007. This Law provides for the imposition of compulsory isolated drug rehabilitation on narcotics-addicted persons who refuse community drug rehabilitation, while also stipulating that supervisory personnel of compulsory isolated drug rehabilitation facilities may not subject such persons to physical punishment, abuse or humiliation; and that such facilities shall provide necessary nursing care and medical treatment for seriously disabled or sick addicts under treatment; apply the necessary isolation or treatment measures in accordance with the law for addicts with contagious diseases; and take appropriate protective restraint measures for addicts under treatment who may injure or harm themselves.

8. The Administrative Compulsion Law of the People's Republic of China was adopted at the 21st meeting of the Standing Committee of the Eleventh National People's Congress on 30 June 2011. Article 20 of this Law stipulates that when an administrative compulsory measure restricting the personal freedom of citizens is implemented in accordance with the provisions of the Law, the family of the party concerned shall be notified of the administrative organ implementing the administrative compulsory measure and the location and term thereof, either on the spot or immediately after the administrative compulsory measure is implemented. Administrative compulsory measures restricting personal freedom shall not be implemented beyond the statutory term. If the purposes of implementing such an administrative compulsory measure have been achieved or the conditions for implementing it have disappeared, the administrative compulsory measure shall be lifted immediately. Article 8 of the Law stipulates that a citizen, legal person or other organization shall be entitled to make statements or arguments against administrative compulsion implemented by an administrative organ, apply for administrative reconsideration or lodge an administrative lawsuit according to law, and compensation for damage suffered from an administrative organ's illegal administrative compulsion.

9. The Decision Regarding the Amendment of the Criminal Procedure Law of the People's Republic of China was adopted at the Fifth Session of the Eleventh National People's Congress on 14 March 2012 (see annex 2). This Decision incorporated the Constitutional principles of respect for and protection of human rights in the Criminal Procedure Law, clearly stipulating strictures against forced self-incrimination, improving the mechanism for excluding illegal evidence, improving the advocacy system for

defendants, setting norms for compulsory and investigative procedures, and strengthening the legal supervision of the people's procuratorates; from the institutional standpoint, it further prevents torture and other cruel, inhuman or degrading treatment or punishment in criminal procedural activities, and upholds judicial fairness and the lawful rights of persons taking part in criminal procedures. On 26 October 2012, with a view to preserving the linkage and coordination among the provisions of laws and to ensure the effective implementation of the amended Criminal Procedure Law from 1 January 2013 onward, the Standing Committee of the National People's Congress accordingly effected appropriate revisions in specific articles of the Prison Law, the Law on Lawyers, the Law on the Protection of Minors, the Law on Prevention of Juvenile Delinquency, the Public Security Administration Punishments Law, the Law on State Compensation, and the People's Police Law of the People's Republic of China.

10. At its 160th meeting on 22 June 2011, the Standing Committee of the State Council adopted the Regulation on Drug Rehabilitation. Article 45 of this Regulation stipulates that supervisory personnel of compulsory isolated drug rehabilitation facilities who subject addicts under treatment to humiliation, abuse or corporal punishment are to be punished in accordance with the law; where such actions constitute crimes, they shall be prosecuted for criminal liability under the law.

11. At its 192nd meeting on 15 February 2012, the Standing Committee of the State Council adopted the Regulations on Administrative Detention Facilities, which went into effect on 1 April 2012. These Regulations safeguard the following lawful rights and interests of detained persons: first, with respect to notification of rights and obligations, administrative detention facilities shall inform detained persons of the rights they enjoy and the provisions they must comply with, at the time such persons are detained; the detaining authority shall also promptly notify the families of detained persons regarding the detention. Second, with respect to living and eating needs, administrative detention facilities shall provide detained persons with sustenance in accordance with specified criteria, and to respect the ethnic dietary customs of detained persons. Third, with respect to medical care and health, administrative detention facilities shall establish systems to maintain health and prevent outbreaks of disease, and provide adequate medical care and illness prevention. They must also provide prompt medical care for detained persons who are ill. In the event that a detained person is found to have a mental illness or communicable disease requiring isolated treatment, or if the severity of the illness constitutes a threat to life and safety, the administrative detention facility shall advise the detaining authority to suspend the detention decision. Fourth, with respect to daily routines, the Regulations clearly specify a minimum of two hours' daily activity outside the detention cell; detained persons may not be forced to perform productive labour. Fifth, with respect to the right of correspondence, administrative detention facilities guarantee the right of detained persons to carry on correspondence during their periods of detention, and letters between detained persons and other persons are not to be inspected or confiscated. Sixth, with respect to the right to meet with legal counsel, administrative detention facilities guarantee the right of detained persons to meet with lawyers during their periods of detention. Seventh, with respect to guaranteeing the rights of female detainees, the physical examination and direct supervision of female detainees are to be carried out by female officers of the people's police.

12. In June 2009, the Ministry of Public Security issued a Notice on Reporting of Measures Such as Continuous Interrogation of Persons Involved in Criminal Cases to Police Supervisory Authorities for the Record, implementing a case-registration system under which public security organs throughout the country report the use of such measures as continuous interrogation, criminal summonses, forcible summonses, criminal detention or residential surveillance with regard to persons involved in criminal cases to the police supervisory authorities at the corresponding level. Once the police supervisory authorities

receive the report of the department handling a case, they have a number of ways in which to exercise their supervisory function; depending on circumstances, they request further information via telephone inquiry or send reminders via text message or other similar means; use web-based police supervisory video systems to visually monitor the interrogation or questioning, as well as the general condition, of suspects in custody; or dispatch personnel to carry out supervision on-site. Supervision focuses primarily on establishing whether or not the people's police handling the case extorted confessions by torture or otherwise inflicted corporal punishment or abuse on the suspects in that case.

13. In June 2010, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice jointly issued the Provisions on Several Issues Concerning the Examination and Judgment of Evidence in Death Penalty Cases and the Provisions on Several Issues Concerning the Exclusion of Illegal Evidence in Criminal Cases. The former document emphasizes that the death penalty is to be applied on the basis of factual evidence from which all reasonable doubt has been excluded; the latter stipulates that confessions and witness testimony obtained through torture or other unlawful means cannot be used to decide a case. Not only do these two regulations comprehensively lay out the basic principles of evidence for criminal proceedings, they also clarify the standard of proof and provide rules for the collection, verification, review, assessment and application of evidence of all kinds; they further specify the connotation and denotation of illegal evidence, and formalize illegal evidence review and exclusion procedures, the burden of proof, and related issues.

14. On 31 August 2010, the Supreme People's Procuratorate and the Ministry of Public Security jointly issued the Provisions on the Interrogation of Criminal Suspects during the Arrest Review Stage, promoting stronger supervision of criminal investigations by itemizing various situations that the people's procuratorates should examine when reviewing the arrests of criminal suspects, including any clues or evidence indicating that unlawful or criminal acts of torture or violence were used to obtain confessions or evidence during the investigation of the crimes in question.

15. The Ministry of Public Security issued the Measures for the Administration of Compulsory Isolated Drug Rehabilitation Facilities of Public Security Authorities on 28 September 2011, further elaborating on relevant provisions of the Narcotics Control Law and the Regulations on Drug Rehabilitation regarding the protection of the lawful rights and interests of narcotics-addicted persons under treatment, stipulating that if such persons report, expose, lodge a complaint about or request an administrative review or administrative proceeding regarding an offense, the compulsory isolated drug rehabilitation facility shall register it and forward the supporting documentation in a timely manner to the relevant authorities (art. 22); that lawyers may meet with addicts under treatment (art. 26); that compulsory isolated drug rehabilitation facilities shall draft and strictly implement meal standards for addicts under treatment, ensuring that they are provided with healthy, hot cooked meals in sufficient quantity (art. 27); that addicts under treatment who victimize, beat or abuse other addicts under treatment shall be given warnings or admonitions, be required to make statements of repentance, or be placed in confinement, according to the rising severity of their offense, and shall be investigated for criminal liability in accordance with the law for actions constituting crimes (art. 36); that compulsory isolated drug rehabilitation facilities shall organize recreational and sports activities and provide physical training for addicts under treatment, involving no less than two hours of outdoor activities per day under most circumstances (art. 57); and that compulsory isolated drug rehabilitation facilities shall provide addicts under treatment with a variety of psychological rehabilitation training regimes (art. 58).

16. On 13 December 2012, the Ministry of Public Security issued a revised version of the Provisions on Procedures for Handling Criminal Cases by Public Security Organs. In

this revision of the procedural regulations, the concept of "respecting and protecting human rights" has been written into the basic mission of the public security authorities in the area of criminal law enforcement, and "no one may be forced to incriminate him/herself" and "the use of torture to coerce confessions is strictly prohibited" have been written into the general principles; the procedures for the collection and review of evidence and the exclusion of illegal evidence have been made more rigorous, with clear stipulations that statements coerced from criminal suspects by torture or other unlawful means, as well as statements from victims or witnesses obtained by violence, threats or other unlawful means, are to be excluded; and the oversight of investigative powers has been further strengthened, with stipulations that audio or visual recordings be made of the interrogation process, and moreover that such recordings must be uninterrupted, in order to maintain their integrity and prevent the unlawful collection of evidence. The Ministry of Public Security also issued a revised version of the Provisions on Procedures for Handling Administrative Cases by Public Security Organs on 19 December 2012, setting rigorous rules for the use of coercive administrative measures by public security authorities, and preventing the damaging of citizens' lawful rights and interests through the improper use of the power of administrative coercion; it also provides standards for the exclusion of illegal evidence that are comparable in rigour to those applied to criminal cases, stipulating that cases may not be disposed on the basis of statements obtained from suspected offenders through torture or other unlawful means, or of testimony obtained from victims or other witnesses through violence, threats or other unlawful means.

17. On 24 December 2012, the Supreme People's Court issued its Interpretation concerning the Application of the Criminal Procedure Law of the People's Republic of China. This Interpretation lays out specific provisions for illegal evidence exclusion procedures, clearly stipulating that cases may not be disposed on the basis of statements obtained from defendants through torture or other unlawful means, or of testimony obtained from witnesses or victims through violence, threats or other unlawful means. It further stipulates that the use of corporal punishment or disguised corporal punishment or other methods of inflicting severe physical or mental pain or suffering on defendants, thereby forcing them to make confessions against their will, shall be deemed "illegal means such as coercion of confession by torture," as set out in article 54 of the Criminal Procedure Law.

18. Since 2005, China has also promulgated another series of regulations and other legal documents effectively preventing the occurrence of torture, such as the Regulations of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice on Legal Aid Work in Criminal Procedure (28 September 2005, revised 4 February 2013), the Detailed Rules on Custody for Judicial Police of the People's Procuratorates (22 November 2005), Several Opinions of the Supreme People's Procuratorate on Implementing a Criminal Policy of Justice Tempered With Mercy in Procuratorial Work (15 January 2007), the Decision of the Supreme People's Procuratorate on Strengthening and Modernizing the Supervision of Detention Facilities (6 March 2007), the Regulations on Disciplinary Punishment for Procuratorial Personnel (14 May 2007), the Opinion of the Supreme People's Court on Strengthening Openness of Trials in the People's Courts (4 June 2007), the Regulations on Pursuit of Liability for Errors in Law Enforcement by Procuratorial Personnel (5 July 2007), the Interim Provisions on the Procuratorial Supervision and Inspection Work of the Supreme People's Procuratorate (8 October 2007), the Opinions of the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Establishing and Perfecting a Liaison System among Local Agencies of the People's Procuratorates and Prisons, Criminal Detention Facilities and Re-education-through-Labour Camps (8 November 2007), the Measures for Procuratorial Supervision of People's Procuratorate Prisons, the Measures for Procuratorial Supervision of People's Procuratorate Criminal Detention Facilities, the Measures for Procuratorial Supervision of People's Procuratorates

over Re-education Through Labour, and the Measures for Procuratorial Supervision of the People's Procuratorates over Persons Serving Sentences Outside Prison (23 March 2008), the Basic Guidelines on Professional Ethics for Procurators (for Trial Implementation) (3 September 2009), Some Opinions of the Supreme People's Court on Implementing a Criminal Policy of Justice Tempered With Mercy (8 February 2010), the Basic Guidelines on Professional Conduct for Procurators (for Trial Implementation) (9 October 2010), and the Rules of Escort Work for Judicial Police of the People's Procuratorates (24 October 2010).

19. China has drafted a series of rules and regulations governing law enforcement behaviour in prisons and safeguarding the lawful rights and interests of criminal offenders, such as the 2006–2010 Plan Outline for People's Prison Police Team-Building, the Opinion on Strengthening Supervision of Police Work (2006), the Six Prohibitions for Prison Police (2006), Several Regulations on Strengthening Prison Safety Administration Work (2009), the Development Plan Outline for National Prison Work During the Period of the Twelfth Five-Year Plan (2011), the 2011–2015 Plan Outline for People's Prison Police Team-Building (2011), and the Regulations on Punishment for Violations of Law and Discipline by People's Prison Police (2012). These documents clearly require that the people's prison police enforce the law in a lawful, rigorous, fair and civilized manner, and that they conscientiously ensure that criminal offenders do not suffer personal humiliation and are secure in their persons, and that offenders' lawful property and rights of appeal, petition, complaint and impeachment, as well as any other rights of which they have not been stripped or which have not been limited in accordance with the law, are not infringed. They further expressly and strictly prohibit the beating, corporal punishment or abuse of persons serving prison sentences, as well as connivance in the beating or corporal punishment of prisoners by others. Depending on the circumstances, prison police who violate these regulations are liable to demerits, major demerits, demotion, dismissal or discharge; where such actions constitute actual crimes, they are referred to judicial authorities for prosecution of criminal liability.

20. Chinese administrative and judicial authorities at all levels emphasize the strengthening of the implementation capacity of the system, and are carrying out a variety of specialized law enforcement supervision activities and effectively suppressing and preventing the extortion of confessions by torture and other such unlawful actions.

21. In November 2005, the Supreme People's Procuratorate issued the Provisions on Implementing Synchronous Audio and Video Recording throughout the Whole Process of Interrogation of Duty-related Criminal Suspects by People's Procuratorates (for Trial Implementation), constituting a major initiative in that organ's further implementation of its special reform campaign to regulate behaviour and promote fairness in law enforcement. Under these Regulations, when cases of duty-related crimes (abuse of official privilege) are under the direct investigation of people's procuratorates, continuous audiovisual recordings of the entire interrogation process must be implemented each time persons suspected of such crimes are questioned; such full synchronous audiovisual interrogation recordings must be carried out under the principle that interrogators and recording personnel are physically separated. In December 2006, the Supreme People's Procuratorate promulgated the Technical Workflow for Implementing Synchronous Audio and Video Recording throughout the Whole Process of Interrogation of Duty-related Criminal Suspects by People's Procuratorates (for Trial Implementation) and the System Construction Specifications for Implementing Synchronous Audio and Video Recording throughout the Whole Process of Interrogation of Duty-related Criminal Suspects by People's Procuratorates (for Trial Implementation) with a view to putting the aforementioned stipulations into practice. Procuratorates at all levels have now implemented synchronous audiovisual recording of interrogations of personnel suspected of duty-related crimes,

fundamentally and effectively suppressing and preventing the occurrence of extortion of confessions by torture and other such unlawful actions.

22. At its 94th meeting in February 2008, the tenth Procuratorial Committee of the Supreme People's Procuratorate adopted the Measures for Procuratorial Supervision of People's Procuratorate Prisons, the Measures for Procuratorial Supervision of People's Procuratorate Criminal Detention Facilities, the Measures for Procuratorial Supervision of People's Procuratorates over Re-education Through Labour, and the Measures for Procuratorial Supervision of People's Procuratorates over Persons Serving Sentences Outside Prisons, setting out detailed regulations for the content and procedures of official duties and procuratorial supervision of procuratorial authorities with regard to prisons, criminal detention facilities, re-education through labour sites and the execution of sentences outside prisons.

23. The Provisions on Procuratorial Advice of People's Procuratorates (for Trial Implementation), which were issued and went into effect in November 2009, provide that people's procuratorates may offer procuratorial advice to people's courts, public security organs and penal institutions in whose law enforcement processes irregularities are emerging or have become a tendency.

24. The Opinions of the Supreme People's Procuratorate and the Ministry of Public Security on Several Issues concerning the People's Procuratorates' Legal Supervision of Criminal Detention Facilities, which took effect in October 2010, provide that law enforcement and administrative operations of criminal detention facilities such as the detention, exchange of custody, and incarceration of criminal suspects or defendants shall be subject to the legal supervision of the procuratorial authorities, and also formalize methods, procedures and responsibilities of legal supervision of the law enforcement and administrative operations of criminal detention facilities.

25. China has established a broad system of information exchange mechanisms and regular joint meetings between procuratorial and criminal detention facility authorities, thereby strengthening the monitoring of both regular conditions and developing trends in law enforcement behaviour in order to promptly discover and correct prison bullying, corporal punishment, abuse and other unlawful occurrences. The Supreme People's Procuratorate issued the Opinions on Strengthening Construction of Procuratorial Outpost Offices in Places of Detention in November 2011, formalizing the deployment and administration of procuratorial outpost offices in jails and other places of surveillance, as well as the development of operations and personnel for such offices.

26. As of the end of 2011, Chinese procuratorial authorities had established 83 procuratorial outpost agencies in large prisons or areas of prison concentration, with more than 3,600 procuratorial outpost offices in places of detention, resulting in a procuratorial presence in over 95 per cent of China's prisons and criminal detention facilities. At present, there are over 12,000 personnel from procuratorial organs at all levels working in these places, of whom some 9,700 have been assigned directly to prisons and criminal detention facilities. The system of deploying a procuratorial presence in places of detention is being further perfected, and such outpost procuratorial organs have become an important form and channel for the protection of detainees' human rights by China's procuratorial authorities.

27. China is strengthening its supervision and monitoring of law enforcement in prisons. In 2009 it launched a national programme to remove hidden accident hazards and promote safety supervision in prisons throughout the country, launching investigations, screening for hazards, and supervising the rectification of problems in such areas as sanitation, the use of police restraint equipment, prison bullying and other such issues for prison inmates all over China. In 2011 it launched a Year of Standardization of Prison Administration campaign;

using laws, regulations and policies as a basis, a total of 4,810 administrative systems were drafted, 6,087 have been amended, and 3,597 have been discarded, thus raising the overall level of system standardization. In the same year it organized three major safety and stability inspections and hazards screening and rectification campaigns, supervising and encouraging the reform of prison law enforcement and the rectification of security problems and hazards in places of detention.

28. At the same time as they are accepting the legal supervision of procuratorial authorities, China's prisons are also comprehensively implementing and deepening openness in prison operations, including the rights and obligations of offenders under the law, and the rights, obligations and disciplinary issues of people's prison police under the law. All prisons are strengthening public oversight of prison law enforcement administration through the news media, including newspapers, periodicals, radio and television; setting up prison openness columns and installing reporting boxes inside prisons; seeking consultation on prison operations; and opening up to the public regarding the legislative authority, process, results and oversight of the prohibition of torture. Prisons in the majority of provinces, autonomous regions and municipalities directly under the central Government are implementing openness in prison affairs through the application of a variety of information technology measures such as the mobile-telephone short message platform, dedicated consultation telephone lines, and touch-screen computer query systems.

29. Public security organs throughout the country are actively deploying and launching law enforcement standardization development, regulating the law enforcement behaviour of public security and people's police personnel and preventing the occurrence of such unlawful acts as extracting confessions by torture and detention beyond the legally prescribed time limits by means of such effective methods as strengthened law enforcement training, improved law enforcement systems, strengthening law enforcement supervision, and the application of computer technology to law enforcement.

30. Local public security authorities have undertaken a standardizing reconstruction of the physical facilities of law enforcement, involving the physical separation of areas in which case-handling procedures are carried out from other functional areas; offices are arranged according to their function in the case-handling workflow, with electronic monitoring and control equipment installed for the guidance of the people's police in law enforcement standardization. As of the end of 2012, 90 per cent of the local police stations throughout China had completed this standardizing reconstruction.

31. Public security authorities are comprehensively implementing online law enforcement and case handling, requiring that cases are handled entirely online in accordance with statutory procedures from the time they are received by the police dispatcher to the time they are disposed of or forwarded for review and prosecution, including major links in the law enforcement process such as the management of property involved in cases, with legislative and supervisory authorities able to monitor the case handling process online at any time. Moreover, technological investment continues to increase, with frontline people's police officers gradually being provided with recording equipment for onsite use in law enforcement, audiovisual equipment being installed for full recording, and synchronized audio and video recording of all aspects of the major stages of the law enforcement process, such as the case-reception dispatcher, thereby standardizing inspection, interrogation and other law enforcement work.

32. Public security authorities are also increasing their investment in forensic science and technology, thereby improving their evidence-gathering capacity. Currently the Ministry of Public Security and public security authorities at the province, municipal and county levels have built a total of more than 3,500 criminal science and technology institutions, employing nearly 40,000 specialist personnel. Public security authorities

throughout the country have built some 250 DNA laboratories, and most county-level public security organs now have remote terminals for fingerprint matching.

33. Under the provisions of a May 2009 circular of the Ministry of Public Security, people's police inspectors may enter places of detention at any time to carry out on-site examinations of the safeguarding of detainees' human rights in order to prevent the occurrence of violations of those rights. From March 2010 to the end of 2011, the Ministry of Public Security deployed a task force to collect and rectify issues of abnormal deaths of persons involved in cases in the process of law enforcement by public security authorities throughout the country, thereby strengthening the sense of responsibility and awareness of human rights among the people's public security police, and bringing about a clear decline in the number of accidents involving the safety responsibilities of law enforcement.

## Article 3
## (Expulsion, return, extradition)

34. Paragraph 72 of the supplementary report and paragraphs 45 to 54 and 56 to 58 of the joint fourth and fifth reports remain effective.

35. Under the provisions of the Extradition Law of the People's Republic of China, a Higher People's Court shall, in accordance with the relevant provisions regarding conditions for extradition of that Law and of extradition treaties which China has concluded with foreign States, convene a collegial panel composed of three judges to conduct an examination of the request for extradition made by the requesting State. When examining an extradition case, the Higher People's Court shall hear the pleadings of the person sought and the opinions of the Chinese lawyers entrusted by that person, including a determination as to whether or not torture exists in the requesting State. After the Higher People's Court has completed its examination and decided whether or not to grant the extradition request, the Supreme People's Court shall review the decision to determine whether it conforms to the provisions of the Extradition Law and extradition treaties. Crimes of torture are included among extraditable offences under the provisions of all extradition treaties which China has concluded with foreign States.

## Article 4
## (Conviction and sentencing standards)

36. Paragraph 77 of the supplementary report, paragraphs 10 to 13 and 16 of the second report, paragraph 14 of the third report, and paragraphs 60 to 66 of the joint fourth and fifth reports remain effective.

37. In September 2010, the Supreme People's Court issued the Guiding Opinions on Sentencing by the People's Courts (for Trial Implementation), and, together with other relevant Government departments, jointly issued the Opinions on Several Issues Concerning the Standardization of Sentencing Procedures (for Trial Implementation). From October 2010 onwards, courts at all levels throughout the country have implemented comprehensive sentencing standardization reforms, regulating judicial discretion in criminal matters and unifying sentencing standards for 15 categories of common crimes, including traffic offences, intentional injury, robbery, theft, drugs offences, rape, false imprisonment, fraud, purse-snatching, abuse of official privilege, extortion, interference with public administration, affray (brawling), provoking disturbances, concealment of crimes, concealment of criminal proceeds, and benefiting from criminal proceeds.

38. Relevant provisions of the foregoing Guiding Opinions and Opinions are applicable to crimes related to torture.

## Article 5
## (Territorial and personal jurisdiction)

39. Paragraphs 15 to 17 of the third report remain effective.

## Article 6
## (Measures taken regarding torturers)

40. Chapter VI of the amended Criminal Procedure Law deals specifically with "compulsory measures". Depending on the particulars of the case, a People's Court, People's Procuratorate or public security organ may take compulsory measures against criminal suspects or defendants, including coercive summonses, restrictions on movement while awaiting trail on bail, residential surveillance, arrest, or detention in custody. These measures are also applicable in the case of allegations of criminal acts related to torture. At the same time, the lawful rights of the criminal suspects and defendants are protected.

41. Under China's Constitution and laws, the anti-malfeasance departments of China's procuratorial authorities are responsible for investigating and dealing with crimes of infringement of citizens' rights, such as the use of torture to extract confessions or of violence to collect evidence, by personnel of State organs acting in dereliction of their official duty or in abuse of their authority. There are some 3,400 such anti-malfeasance organs in procuratorial organs at all levels throughout the country, with more than 16,000 personnel, ensuring that any act of torture can be speedily and fairly investigated.

42. On 21 April 2010, the Ministry of Human Resources and Social Security and the Ministry of Public Security jointly issued the Ordinance on Discipline for the People's Police of the Public Security Organs, stipulating that whosoever implements compulsory measures or administrative detention in violation of regulations, unlawfully takes away or limits the personal liberties of other persons, extends a term of custody or implements disguised detention in violation of regulations, corporally punishes or abuses criminal suspects, prisoner detainees or other persons in his or her working capacity, or who coerces, or incites, suborns or compels others to coerce, confessions by torture shall be sanctioned in the form of demerits, reduction in rank, dismissal from office or expulsion from the employing organization.

43. Article 202 of the amended Criminal Procedure Law stipulates that when a people's court hears a case submitted by the people's procuratorate, it shall pronounce its judgment within two months, and no later than three months, after admission of such case. Where statutory conditions require further extension of the trial, application for approval shall be made to the people's court at the next higher level or to the Supreme People's Court. Article 232 stipulates that where a people's court of second instance admits an appeal or counter-appeal, it shall conclude the case within two months. Where statutory conditions require further extension of the trial, application for approval or decision shall be made to the higher people's court at the level of the province, autonomous region or municipality directly administered by the central Government, or to the Supreme People's Court.

44. Article 115 of the Interpretation of the Supreme People's Court concerning the Implementation of the Criminal Procedure Law of People's Republic of China stipulates that a defendant's compelled appearance shall not exceed 12 hours in duration. If the case is particularly important, complex, or requires carrying out formal arrest measures, the duration shall not exceed 24 hours. Defendants shall not be de facto detained through consecutive compelled appearances. The detainee's food, drink and rest needs shall be guaranteed. Article 126 stipulates that after a defendant has been assigned residential surveillance, the people's court shall within 24 hours notify the defendant's family of the

reasons and basis for residential surveillance. If notification is definitely impossible, it shall be noted in the case file. Article 131 stipulates that after the formal arrest of a defendant, the people's court shall send notice of the reason for formal arrest and place of detention to the defendants family members within 24 hours. If notification is definitely impossible, it shall be recorded in the case file. Article 132 stipulates that when the people's court has decided to order the arrest of a defendant, the defendant shall be interrogated within 24 hours of the arrest. Upon discovery that the defendant should not have been arrested, the compulsory measures shall be modified, or the defendant shall be released immediately. This article provides that if the arrest of a defendant meets certain conditions, the people's court shall modify the compulsory measures applied to the defendant or else effect the defendant's release. Article 137 also stipulates that when a defendant or the defendant's legally-appointed representative, immediate family members or advocate applies for modification of compulsory measures, the reason must be explained. The people's court shall issue a judgment within three days of receiving the application. If the people's court agrees to modify the compulsory measures, the modification shall be processed in accordance with this Interpretation. If the people's court does not agree, it shall notify the applicant and explain its reasoning.

45. In July 2010, the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice jointly drafted and issued Several Provisions on Intensifying the Legal Supervision of Judicial Functionaries' Dereliction of Duty in Litigation Activities (for Trial Implementation), stipulating that the procuratorial authorities may investigate unlawful acts in litigation, and improving the mechanism for uncovering and dealing with crimes of judicial injustice and malfeasance. Under article 3 of the Provisions, the people's procuratorates shall investigate and verify whether judicial functionaries, in the course of litigation activities, extracted confessions from criminal suspects or defendants through torture or obtained witness testimony through the use of violence, or resorted to violence or threats to prevent witnesses from testifying, or directed other persons to give false testimony, or beat, corporally punished or abused prisoner detainees or directed prisoner detainees to beat, corporally punish or abuse other prisoner detainees. The procuratorial authorities may pursue their investigation by means of questioning persons involved in or familiar with the case, and by examining the injuries sustained by the victim. Upon completing the initial investigation, if it is determined that the facts indicate a crime requiring prosecution for criminal liability, a case shall be filed for further investigation or sent to the competent authority for filing and further investigation in accordance with the law, with the organ involved being advised to suspend the duties of the functionary under investigation and replace him or her on the cases he or she was handling. If unlawful malfeasance is confirmed, but has not yet risen to the level of criminality, a notification of unlawful behaviour requiring rectification shall be sent to the organ employing the functionary under investigation. If the malfeasance is confirmed to constitute a more serious breach of the law, even if not to the level of criminality, and if the continued handling of cases by the functionary under investigation would seriously undermine the impartiality of litigation activities in progress, and the organ involved has not yet replaced the person or persons handling the case, that organ shall be advised to replace them.

## Article 7
## (Fair treatment in extradition or prosecution)

46. Paragraph 90 of the supplementary report and paragraph 19 of the third report remain effective.

## Article 8
## (Extradition treaties)

47. Paragraph 71 of the joint fourth and fifth reports remains effective. As of the end of 2012, China had signed extradition treaties with 35 countries, of which 27 had entered into force, as shown in the following table:

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| 1 | Thailand | Treaty between the People's Republic of China and the Kingdom of Thailand on Extradition | 26 August 1993 | 7 March 1999 |
| 2 | Belarus | Treaty between the People's Republic of China and the Republic of Belarus on Extradition | 22 June 1995 | 7 May 1998 |
| 3 | Russian Federation | Treaty between the People's Republic of China and the Russian Federation on Extradition | 26 June 1995 | 10 January 1997 |
| 4 | Bulgaria | Treaty between the People's Republic of China and the Republic of Bulgaria on Extradition | 20 May 1996 | 3 July 1997 |
| 5 | Romania | Treaty between the People's Republic of China and Romania on Extradition | 1 July 1996 | 16 January 1999 |
| 6 | Kazakhstan | Treaty between the People's Republic of China and the Republic of Kazakhstan on Extradition | 5 July 1996 | 10 February 1998 |
| 7 | Mongolia | Treaty between the People's Republic of China and Mongolia on Extradition | 19 August 1997 | 10 January 1999 |
| 8 | Kyrgyzstan | Treaty between the People's Republic of China and the Kyrgyz Republic on Extradition | 27 April 1998 | 27 April 2004 |
| 9 | Ukraine | Treaty between the People's Republic of China and Ukraine on Extradition | 10 December 1998 | 13 July 2000 |
| 10 | Cambodia | Treaty between the People's Republic of China and the Kingdom of Cambodia on Extradition | 9 February 1999 | 13 December 2000 |
| 11 | Uzbekistan | Treaty between the People's Republic of China and the Republic of Uzbekistan on Extradition | 8 November 1999 | 29 September 2000 |
| 12 | Republic of Korea | Treaty between the People's Republic of China and the Republic of Korea on Extradition | 18 October 2000 | 12 April 2002 |
| 13 | Philippines | Treaty between the People's Republic of China and the Republic of the Philippines on Extradition | 30 October 2001 | 12 March 2006 |
| 14 | Peru | Treaty between the People's Republic of China and the Republic of Peru on Extradition | 5 November 2001 | 5 April 2003 |
| 15 | Tunisia | Treaty between the People's Republic of China and the Republic of Tunisia on Extradition | 19 November 2001 | 29 December 2005 |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| 16 | South Africa | Treaty between the People's Republic of China and the Republic of South Africa on Extradition | 10 December 2001 | 17 November 2004 |
| 17 | Lao People's Democratic Republic | Treaty between the People's Republic of China and the Lao People's Democratic Republic on Extradition | 4 February 2002 | 13 August 2003 |
| 18 | United Arab Emirates | Treaty between the People's Republic of China and the United Arab Emirates on Extradition | 13 May 2002 | 24 May 2004 |
| 19 | Lithuania | Treaty between the People's Republic of China and the Republic of Lithuania on Extradition | 17 June 2002 | 21 June 2003 |
| 20 | Pakistan | Treaty between the People's Republic of China and the Islamic Republic of Pakistan on Extradition | 3 November 2003 | 10 January 2008 |
| 21 | Lesotho | Treaty between the People's Republic of China and the Kingdom of Lesotho on Extradition | 6 November 2003 | 30 October 2005 |
| 22 | Brazil | Treaty between the People's Republic of China and the Federative Republic of Brazil on Extradition | 12 November 2004 | – |
| 23 | Azerbaijan | Treaty between the People's Republic of China and the Republic of Azerbaijan on Extradition | 17 March 2005 | 1 December 2010 |
| 24 | Spain | Treaty between the People's Republic of China and the Kingdom of Spain on Extradition | 14 November 2005 | 4 April 2007 |
| 25 | Namibia | Treaty between the People's Republic of China and the Republic of Namibia on Extradition | 19 December 2005 | 19 September 2009 |
| 26 | Angola | Treaty between the People's Republic of China and the Republic of Angola on Extradition | 20 June 2006 | – |
| 27 | Algeria | Treaty between the People's Republic of China and the People's Democratic Republic of Algeria on Extradition | 6 November 2006 | 22 September 2009 |
| 28 | Portugal | Treaty between the People's Republic of China and the Portuguese Republic on Extradition | 31 January 2007 | 25 July 2009 |
| 29 | France | Treaty between the People's Republic of China and the Republic of France on Extradition | 20 March 2007 | – |
| 30 | Australia | Treaty between the People's Republic of China and Australia on Extradition | 6 September 2007 | – |
| 31 | Mexico | Treaty between the People's Republic of China and the United Mexican States on Extradition | 11 July 2008 | 7 July 2012 |
| 32 | Indonesia | Treaty between the People's Republic of China and the Republic of Indonesia | 1 July 2009 | – |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| | | on Extradition | | |
| 33 | Italy | Treaty between the People's Republic of China and the Republic of Italy on Extradition | 7 October 2010 | – |
| 34 | Islamic Republic of Iran | Treaty between the People's Republic of China and the Islamic Republic of Iran on Extradition | 10 September 2012 | – |
| 35 | Bosnia and Herzegovina | Treaty between the People's Republic of China and Bosnia and Herzegovina on Extradition | 20 December 2012 | – |

## Article 9
## (Judicial assistance in criminal matters)

48. Paragraph 100 of the supplementary report remains effective. As of the end of 2012, China had concluded treaties on mutual legal assistance on criminal (or civil and criminal or civil, commercial and criminal) matters with 49 countries, of which 46 have come into force, providing a legal foundation for cooperation in criminal procedure among the States Parties to these treaties. See the tables below:

**Treaties on mutual legal assistance in criminal matters** (30 total)

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| 1 | Canada | Treaty between the People's Republic of China and Canada on Mutual Legal Assistance in Criminal Matters | 29 July 1994 | 1 July 1995 |
| 2 | Bulgaria | Treaty between the People's Republic of China and the Republic of Bulgaria on Mutual Legal Assistance in Criminal Matters | 7 April 1995 | 27 May 1996 |
| 3 | Republic of Korea | Treaty between the People's Republic of China and the Republic of Korea on Mutual Legal Assistance in Criminal Matters | 12 November 1998 | 24 March 2000 |
| 4 | Colombia | Treaty between the People's Republic of China and the Republic of Colombia on Mutual Legal Assistance in Criminal Matters | 14 May 1999 | 27 May 2004 |
| 5 | Tunisia | Treaty between the People's Republic of China and the Republic of Tunisia on Mutual Legal Assistance in Criminal Matters | 30 November 1999 | 30 December 2000 |
| 6 | United States of America | Treaty between the People's Republic of China and the United States of America on Mutual Legal Assistance in Criminal Matters | 19 June 2000 | 8 March 2001 |
| 7 | Indonesia | Treaty between the People's Republic of China and the Republic of Indonesia on Mutual Legal Assistance in Criminal | 24 July 2000 | 28 July 2006 |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| | | Matters | | |
| 8 | Philippines | Treaty between the People's Republic of China and the Republic of the on Mutual Legal Assistance in Criminal Matters | 16 October 2000 | 17 November 2012 |
| 9 | Estonia | Treaty between the People's Republic of China and the Republic of Estonia on Mutual Legal Assistance in Criminal Matters | 12 June 2002 | 31 March 2011 |
| 10 | South Africa | Treaty between the People's Republic of China and the Republic of South Africa on Mutual Legal Assistance in Criminal Matters | 20 January 2003 | 17 November 2004 |
| 11 | Thailand | Treaty between the People's Republic of China and the Kingdom of Thailand on Mutual Legal Assistance in Criminal Matters | 21 June 2003 | 20 February 2005 |
| 12 | Latvia | Treaty between the People's Republic of China and the Republic of Latvia on Mutual Legal Assistance in Criminal Matters | 1[illegible] April 2004 | 18 September 2005 |
| 13 | Brazil | Treaty between the People's Republic of China and the Federative Republic of Brazil on Mutual Legal Assistance in Criminal Matters | 24 May 2004 | 26 October 2007 |
| 14 | Mexico | Treaty between the People's Republic of China and the United Mexican States on Mutual Legal Assistance in Criminal Matters | 24 January 2005 | 30 December 2006 |
| 15 | Peru | Treaty between the People's Republic of China and the Republic of Peru on Mutual Legal Assistance in Criminal Matters | 27 January 2005 | 18 March 2009 |
| 16 | France | Treaty between the People's Republic of China and the Republic of France on Mutual Legal Assistance in Criminal Matters | 18 April 2005 | 20 September 2007 |
| 17 | Spain | Treaty between the People's Republic of China and the Kingdom of Spain on Mutual Legal Assistance in Criminal Matters | 21 July 2005 | 15 April 2007 |
| 18 | Portugal | Treaty between the People's Republic of China and the Republic of Portugal on Mutual Legal Assistance in Criminal Matters | 9 December 2005 | 15 May 2009 |
| 19 | Australia | Treaty between the People's Republic of China and Australia on Mutual Legal Assistance in Criminal Matters | 3 April 2006 | 28 March 2007 |
| 20 | New Zealand | Treaty between the People's Republic of China and New Zealand on Mutual Legal Assistance in Criminal Matters | 6 April 2006 | 1 January 2008 |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| 21 | Namibia | Treaty between the People's Republic of China and the Republic of Namibia on Mutual Legal Assistance in Criminal Matters | 26 May 2006 | 19 September 2009 |
| 22 | Algeria | Treaty between the People's Republic of China and the People's Democratic Republic of Algeria on Mutual Legal Assistance in Criminal Matters | 6 November 2006 | 22 September 2009 |
| 23 | Pakistan | Treaty between the People's Republic of China and the Islamic Republic of Pakistan on Mutual Legal Assistance in Criminal Matters | 17 April 2007 | 6 August 2010 |
| 24 | Japan | Treaty between the People's Republic of China and Japan on Mutual Legal Assistance in Criminal Matters | 1 December 2007 | 23 November 2008 |
| 25 | United Arab Emirates | Treaty between the People's Republic of China and the United Arab Emirates on Mutual Legal Assistance in Criminal Matters | 3 April 2008 | 14 May 2011 |
| 26 | Venezuela | Treaty between the People's Republic of China and the Bolivarian Republic of Venezuela on Mutual Legal Assistance in Criminal Matters | 24 September 2008 | 12 June 2009 |
| 27 | Malta | Treaty between the People's Republic of China and the Republic of Malta on Mutual Legal Assistance in Criminal Matters | 22 February 2009 | 11 January 2012 |
| 28 | Italy | Treaty between the People's Republic of China and the Republic of Italy on Mutual Legal Assistance in Criminal Matters | 7 October 2010 | – |
| 29 | Argentina | Treaty between the People's Republic of China and the Republic of Argentina on Mutual Legal Assistance in Criminal Matters | 25 June 2012 | – |
| 30 | Bosnia and Herzegovina | Treaty between the People's Republic of China and Bosnia and Herzegovina on Mutual Legal Assistance in Criminal Matters | 8 December 2012 | – |

**Treaties on mutual legal assistance in civil and criminal matters or civil, commercial and criminal matters** (19 total)

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| 1 | Poland | Treaty between the People's Republic of China and the Republic of Poland on Mutual Legal Assistance in Civil and Criminal Matters | 5 June 1987 | 13 February 1988 |
| 2 | Mongolia | Treaty between the People's Republic of China and Mongolia on Mutual | 31 August 1989 | 29 October 1990 |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| | | Legal Assistance in Civil and Criminal Matters | | |
| 3 | Romania | Treaty between the People's Republic of China and Romania on Mutual Legal Assistance in Civil and Criminal Matters | 16 January 1991 | 22 January 1993 |
| 4 | Russian Federation | Treaty between the People's Republic of China and the Russian Federation on Mutual Legal Assistance in Civil and Criminal Matters | 19 June 1992 | 14 November 1993 |
| 5 | Turkey | Treaty between the People's Republic of China and the Republic of Turkey on Mutual Legal Assistance in Civil, Commercial and Criminal Matters | 28 September 1992 | 26 October 1995 |
| 6 | Ukraine | Treaty between the People's Republic of China and Ukraine on Mutual Legal Assistance in Civil and Criminal Matters | 31 October 1992 | 19 January 1994 |
| 7 | Cuba | Treaty between the People's Republic of China and the Republic of Cuba on Mutual Legal Assistance in Civil and Criminal Matters | 24 November 1992 | 26 March 1994 |
| 8 | Belarus | Treaty between the People's Republic of China and the Republic of Belarus on Mutual Legal Assistance in Civil and Criminal Matters | 11 January 1993 | 29 November 1993 |
| 9 | Kazakhstan | Treaty between the People's Republic of China and the Republic of Kazakhstan on Mutual Legal Assistance in Civil and Criminal Matters | 14 January 1993 | 11 July 1995 |
| 10 | Egypt | Treaty between the People's Republic of China and the Arab Republic of Egypt on Mutual Legal Assistance in Civil, Commercial and Criminal Matters | 21 April 1994 | 31 May 1995 |
| 11 | Greece | Treaty between the People's Republic of China and the Hellenic Republic on Mutual Legal Assistance in Civil and Criminal Matters | 17 October 1994 | 29 June 1996 |
| 12 | Cyprus | Treaty between the People's Republic of China and the Republic of Cyprus on Mutual Legal Assistance in Civil, Commercial and Criminal Matters | 25 April 1995 | 1 February 1996 |
| 13 | Kyrgyzstan | Treaty between the People's Republic of China and the Kyrgyz Republic on Mutual Legal Assistance in Civil and Criminal Matters | 4 July 1996 | 26 September 1997 |
| 14 | Tajikistan | Treaty between the People's Republic of China and the Republic of Tajikistan on Mutual Legal Assistance in Civil | 16 September 1996 | 2 September 1998 |

| | *Name of country* | *Name of treaty* | *Date of signing* | *Date of entry into force* |
|---|---|---|---|---|
| | | and Criminal Matters | | |
| 15 | Uzbekistan | Treaty between the People's Republic of China and the Republic of Uzbekistan on Mutual Legal Assistance in Civil and Criminal Matters | 11 December 1997 | 29 August 1998 |
| 16 | Viet Nam | Treaty between the People's Republic of China and the Socialist Republic of Viet Nam on Mutual Legal Assistance in Civil and Criminal Matters | 19 October 1998 | 25 December 1999 |
| 17 | Laos | Treaty between the People's Republic of China and the Lao People's Democratic Republic on Mutual Legal Assistance in Civil and Criminal Matters | 25 January 1999 | 15 December 2001 |
| 18 | Lithuania | Treaty between the People's Republic of China and the Republic of Lithuania on Mutual Legal Assistance in Civil and Criminal Matters | 20 March 2000 | 19 January 2002 |
| 19 | Democratic People's Republic of Korea | Treaty between the People's Republic of China and the Democratic People's Republic of Korea on Mutual Legal Assistance in Civil and Criminal Matters | 19 November 2003 | 21 January 2006 |

## Article 10
## (Education and training)

49. China attaches importance to educating and propagandizing State civil servants, in particular to law enforcement personnel in the administrative departments of the courts, procuratorates, and public-security and judicial organs, about the prohibition of torture and has undertaken a series of measures in that regard.

50. In order to provide guidance for the courts and the entire body of criminal judges in accurately understanding and implementing the Criminal Procedure Law as amended, the Supreme People's Court has organized and launched a series of study and training work programmes: in March 2012, it convened a national videoconference on implementation of the amended Criminal Procedure Law in court decisions, emphasizing the need to further strengthen the concepts of human rights guarantees, procedural justice and evidentiary adjudication, and of trying cases fairly and in strict accordance with the law. In May 2012, it conducted training courses in the law of criminal procedure for courts throughout the country, with concentrated training for vice-presidents in charge of criminal trials in higher courts, chief judges of criminal tribunals, and some vice-presidents in charge of criminal trials in mid-level courts. In July 2012, it convened meetings in courts throughout the country to discuss criminal trials, requiring people's courts at all levels to conscientiously study and implement the amended Criminal Procedure Law, thereby comprehensively raising the standard for criminal trials. Study and training programmes of all kinds have also been carried out in courts at all levels throughout the country.

51. Since 2009, procuratorial authorities have been carrying out large-scale procuratorial education and training programmes, undertaking concerted action to raise the quality of procuratorial law enforcement by a wide margin by requiring procuratorial organs

throughout the country to continuously broaden the scope of training received by procurators as well as continuously improve the quality of that training, while also requiring that general procuratorial personnel receive no less than 100 class hours of training per year and that leadership staff in procuratorial organs receive no less than 110 class hours of training per year.

52. The Ministry of Public Security has been conducting training courses for city and county public-security bureau chiefs, section heads and team leaders and legal staff, and special training courses in law enforcement standardization; it has set up major forums on the rule of law and invited the leaders of political and legislative organs as well as leading experts to participate in them; and has held videoconferences for people's public security police throughout the country on the concept of respecting and guaranteeing human rights, as well as on the law and on professional technical skills. Local public security organs are continuously strengthening the law enforcement philosophy of respecting and guaranteeing human rights as well as quality-oriented education, by means of intensive training, discussion forums, online education, case reviews and observing actual trials.

53. In 2007, the Ministry of Public Security organized examinations on basic knowledge of the law in public security organs throughout the country, in which nearly 8,000 randomly-selected commanders and officers from 64 county-level public-security organs and 100 model public security law-enforcement units across the country took part. In 2011, the Ministry of Public Security introduced a nationwide system of law enforcement rank qualification examinations for public security organs, stipulating that people's police who had not achieved the basic level of law enforcement qualification would not be allowed to handle cases, thereby impelling the broad majority of people's police to consciously study the law as well as raising the capacity for and level of cases to be handled in accordance with the law. Currently, local public security organs have administered basic-level law enforcement rank qualification examinations to 1.7 million people's police officers, and another 740,000 people's police officers took part in intermediate-level law enforcement rank qualification examinations organized by public security organs nationwide in 2012. The Ministry of Public Security directly organizes law enforcement qualification examinations for all ranks as of 2013.

54. Once the decision to amend the Criminal Procedure Law had been made, the Ministry of Public Security issued an implementation notice requiring all public security organs at every level to immediately implement the Law's provisions regarding the principle of respect for and guaranteeing of human rights, and that of not forcing any person to incriminate his or herself, in their handling of cases. The Ministry of Public Security has convened video-conferences with local public security organs throughout the country, as well as two specialized training programmes aimed at strengthening the training in the Criminal Procedure Law of some 600 exemplary police professionals responsible for criminal law enforcement and training from public security organs at all levels, so that that the people's police will carry out their crime-fighting duties in an accurate and timely manner and effectively preserve social order, while also harbouring a firmly inculcated concept of respecting and guaranteeing human rights, consciously adhering to the prohibitive provisions of the laws and spurning all actions injurious to the litigation rights of criminal suspects, thereby creating a case-handling culture that is civilized and law-abiding.

55. China is strengthening the education and training of people's prison police with regard to the prohibition of torture. Between 2006 and 2010, people's prison police received an average of 3 months or more of off-the-job training, and new police recruits received no less than one month's training prior to reporting for duty. The training programme focuses primarily on prison administration and police administration knowledge and skills. In 2009, an education and training programme was held in three

sessions for all the prison wardens in the country, with protection of human rights and issues of criminal law as part of the content. In 2010, a major training campaign in law enforcement and professional skills was held, with 17,826 training classes being held nationwide, along with 923 training exercises, involving some 300,000 people's prison police. 2011 was designated as a Year of Standardization of Prison Administration; more than 300,000 copies of the background materials on the prison system were printed and 5,300 training classes were held; the entire corps of people's prison police took part in training, averaging 10 days of training or more per person. Moreover, psychological treatment is provided to inmates of all prisons in the country; nearly 30,000 prison police officers hold national qualification certificates in psychological counselling.

## Article 11
## (Review of related mechanisms and measures)

56. Paragraphs 27, 33 and 36 of the second report remain effective.

57. China has implemented numerous effective oversight and safeguard mechanisms to prevent the occurrence of torture. The mechanisms include: (1) oversight by community organizations and public opinion, as well as that of the popular masses (including the families of prisoners); (2) oversight by the outpost procuratorial offices, as well as through the report and complaint boxes, deployed in prisons and criminal detention facilities by the people's procuratorates, for maintaining oversight of law enforcement activities in places of detention and safeguarding the petition, complaint and violation-reporting rights of offenders and other detainees in accordance with the law; (3) oversight and monitoring by supervisory and discipline-inspection departments set up in places of detention, which receive and handle torture-related cases. In their investigations and related work, the competent authorities in places of detention focus primarily on whether or not offenders and other detainees have been maltreated, corporally punished or abused; (4) unscheduled inspection tours of places of detention by deputies to people's congresses and people's political consultative conferences at all levels to check on the conditions of law enforcement therein.

58. The Chinese procuratorial authorities are the nation's organ of legal supervision. The amended Criminal Procedure Law has further improved the substance of the legal oversight of criminal procedure by the people's procuratorates in accordance with the law. First, with regard to the advocacy system, the Law has increased legal supervision of interference by public security and judicial authorities and their staffs in the performance by advocates and legal representatives of their professional responsibilities in accordance with the law. Second, with regard to the illegal evidence exclusion system, it has increased the legal supervision powers of the procuratorial authorities regarding the illegal collection of evidence by investigators. If violations of the law are confirmed to have occurred in the course of an investigation, they submit corrective proposals; if the violations amount to crimes, they prosecute criminal liability in accordance with the law, as illegal evidence must be excluded in accordance with the law, and may not serve as the basis for a decision to prosecute. Third, with regard to the system of compulsory measures, it has stipulated the right of procuratorial authorities to exercise legal supervision over whether or not the decision to enforce residential surveillance and its implementation are lawful; with regard to the process of reviewing and approving arrests, the Law requires that specific conditions be satisfied for the interrogation of crime suspects, and that the opinion of defence counsel shall be heard; after a crime suspect has been arrested, the people's procuratorate shall conduct an investigation as to the need to hold that person in custody, and make the appropriate arrangements. Fourth, with regard to the investigation process, the Law has increased the powers of legal supervision of the procuratorial authorities with regard to

sequestration, impoundment and freezing of assets. Fifth, with regard to the process of death penalty review, the Law has increased the substance of procuratorial authorities' intervention in the review process, with the Supreme People's Procuratorate being able to advise the Supreme People's Court; the Supreme People's Court must also notify the Supreme People's Procuratorate of the results of its review of a death penalty. Sixth, it has increased the legal supervision powers of the procuratorial authorities with regard to special procedures, explicitly stipulating, for example, that in the process of arrest review and approval for a minor in a criminal case, the procuratorial authorities must question the crime suspect or defendant, and hear the opinions of the defence counsel. Seventh, it increases the supervision of compulsory medical procedures by the procuratorial authorities.

59. On behalf of persons in custody in places of detention, the Chinese procuratorial authorities implement compulsory rights notifications, deposit boxes for correspondence with procurators, appointments for persons in custody to meet with procurators, meeting schedules for on-site procurators, speaking with persons in custody, and mechanisms for persons in custody to bring litigation. To review the necessity for continued custody, the procuratorial authorities in Liaoning, Jiangsu, Shandong, Hubei, Sichuan and Shensi provinces have instituted systems for chief procurators to spend a day in the facility and for interviews with them to be arranged. The foregoing activities constitute the basic working principles for procuratorial supervision of the execution of criminal sentences and of custodial activities in accordance with the law.

60. On 10 January 2011, the people's procuratorate, people's court and public security bureau of Wuxing county in Sichuan province jointly introduced the Implementation Measures on Undertaking the Work of Pre-Trial Review of the Necessity for Custody of Detained Persons. In accordance with the procedures and requirements stipulated in the provisions of these Measures, the procurators successively undertook initial investigations of 212 criminal suspects or defendants, initiating custody review procedures for 56 of them and issuing a total of 44 Procuratorial Opinions on altering compulsory measures, all of which were accepted by the case-handling authorities. All of the criminal suspects or defendants for whom the compulsory measures were altered were able to pursue the litigation of their cases, and none was subject to further criminal detention.

61. At present, systematic information exchanges and scheduled contact meetings have been widely established between local procuratorial authorities and criminal detention facilities all over China; the law enforcement activities and operations of criminal detention facilities are subject to frequent monitoring, and prompt corrections are implemented when prison bullying, corporal punishment or abuse or other unlawful occurrences are uncovered in the course of detention operations. Criminal detention facilities throughout the country have also established documentation files on the physical health of persons in custody, to keep records of their physical condition and ensure that those with illnesses receive prompt medical care.

62. On 7 December 2009, the Supreme People's Court and the Ministry of Public Security jointly issued the Circular on Building Effective Surveillance Networks Between Criminal Detention Facilities and On-Site Procuratorial Offices, implementing the networking of criminal detention facilities' main law enforcement information and video monitoring systems with their on-site procuratorial offices, thereby facilitating the full supervision of the criminal detention facility by that office in real time.

63. On 29 December 2011, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Civil Affairs jointly issued the Regulations on Handling Deaths of Persons in the Custody of Criminal Detention Facilities, standardizing procedures for investigating the deaths of persons in custody, clarifying the respective duties of, and areas of mutual cooperation between, the public security authorities and the people's

procuratorates, and stipulating that the people's procuratorates shall exercise procuratorial supervision of the investigation and handling of such cases by the public security authorities.

64. Since 2009, the Ministry of Public Security has been promoting the opening of criminal detention facilities to the public, requiring criminal detention facilities to take account of views from all quarters, broadly accept public oversight and continuously improve and update their work, by means of convening meetings with the relatives of persons in custody and with their lawyers, inviting visits by the news media and welcoming visits by people from all walks of life.

65. On 21 October 2010, the Ministry of Public Security issued the Opinion on Establishing and Perfecting the Law Compliance Officer System for County-Level Public Security Organs, broadly assigning or deploying full-time or part-time law compliance officers to public security law-enforcement agencies and local police stations at the county level to audit the compliance of their law-enforcement operations with the laws, and strengthening the timely supervision and administration of the law enforcement process.

66. On 13 September 2011, the Ministry of Public Security drafted the Regulations on the Inspection and Supervision Work of Specially Invited Supervisors in Criminal Detention Facilities, establishing a system of inspections by special invited supervisors, stipulating in particular that with valid identification, such supervisors may carry out supervisory inspections of the functioning of criminal detention facilities during working hours and that they may speak with persons being detained there, thereby fully bringing into play the public-supervision role of such inspectors as independent third parties and safeguarding the lawful rights and interests of detainees.

67. There are 10,316 special invited supervisors currently working in criminal detention facilities throughout China, and 2,418 criminal detention facilities have been opened to the public. In January 2001, 69 police attachés from the diplomatic and consular missions of 47 countries, including the United States and Great Britain, toured the Beijing Nos. 1 and 2 Criminal Detention Centres, and had high praise for the lawful and civilized management of those facilities.

## Article 12
## (Investigation of acts of torture)

68. Paragraphs 113 to 114 of the supplementary report and paragraphs 96 to 106 of the fourth and fifth joint reports remain effective.

69. The amended Criminal Procedure Law contains regulations concerning the processes by which the people's procuratorates investigate the illegal collection of evidence and by which the people's courts investigate the exclusion of illegally-collected evidence during trial proceedings. Article 55 stipulates that the people's procuratorate shall investigate and verify reports, accusations, tips or its own discoveries that investigators have used illegal means to collect evidence. Where the means of evidence collection have been confirmed as illegal, it shall issue a recommendation to rectify the situation; where such illegal collection of evidence constitutes a crime, criminal liability shall be prosecuted in accordance with the law. The first paragraph of article 171 stipulates that in reviewing the case, if the people's procuratorate suspects that circumstances in which evidence was collected illegally may exist, it may request the public security authorities to provide a clarification as to the legality of the collection of that evidence. Article 56 stipulates that if, in the process of a court hearing, a judge is of the opinion that evidence collected by illegal means exists, a court enquiry into the legality of that evidence's collection shall be conducted. The parties to the case and their defenders or legal representatives have the right

to apply to the people's court to exclude evidence collected illegally. Article 57 stipulates that during a court enquiry into the legality of the evidence collection process, the people's prosecutor's office shall certify the legality of the collection of that evidence. Where the available evidentiary materials cannot certify the legality of that evidence's collection, the people's procuratorate may request that the people's court notify the investigator or other persons involved to appear in court to explain the situation; the people's court may also notify the investigator or other persons involved to appear in court to explain the situation. The investigator or other persons involved may themselves request to appear in court to explain the situation. Persons involved shall appear upon notification by the people's court. Article 58 stipulates that where evidence is determined through a court hearing to have been collected illegally or where an illegal collection of evidence cannot be excluded, such evidence shall be excluded in accordance with the law.

70. Under the provisions of the Administrative Supervision Law of the People's Republic of China and the People's Police Law, the discipline inspection commissions and supervision departments of the public security organs may, in accordance with the law, investigate such infringements of the personal rights of persons involved in crime cases as the extraction of confessions by torture, abuse of compulsory measures, and other violations of regulations and discipline by the people's police.

71. Under the Organic Law of the People's Procuratorates of the People's Republic of China, the internal anti-malfeasance and rights infringement departments of Chinese procuratorial organs are responsible for investigating and handling crimes of abuse of official privilege by personnel of State organs and the use of official authority to extract confessions through torture or obtain evidence through violence and other crimes of infringement of the personal and democratic rights of citizens. There are 3,400 such internal anti-malfeasance and rights infringement departments in procuratorial organs at all levels throughout the country, staffed by some 16,000 personnel, ensuring that any act of torture will be promptly and fairly investigated.

72. The procuratorial authorities strictly enforce the law, handling cases in which prison police corporally punish or abuse detained persons or abuse their authority in such a way as to cause injury or death to detained persons, upholding standard detention procedures, and ensuring that the lawful rights and interests of the detained are not infringed upon. From 2008 to the end of 2011, the procuratorial authorities handled 158 cases of detainee abuse, involving 191 persons.

73. In 2008, people's criminal detention facility police officer Wang Wan'an of the Xing'an County Criminal Detention Centre in the Guangxi Zhuang Autonomous Region was investigated and indicted by the procuratorial authorities for instigating the abuse of a certain detained person surnamed Li by other detainees, resulting in Li's death. Pan Dinglong, the warden of the Centre, was indicted for attempting to conceal the facts. In June 2009, the Nanning Municipal Intermediate People's Court in Guangxi sentenced Wang to 15 years' imprisonment under the Criminal Law for the crime of intentional homicide, and sentenced Pan Dinglong to 6 years' imprisonment for the crime of false testimony.

74. The Chinese people's courts carry out prompt and fair trials of cases of infringement of citizens' rights involving torture. In 2007, 50 people were found guilty of extracting confessions through torture, 27 were found guilty of obtaining evidence through violence, and 77 were found guilty of abusing detainees; in 2008, 63 people were found guilty of extracting confessions through torture, 34 were found guilty of obtaining evidence through violence, and 97 were found guilty of abusing detainees; in 2009, 60 people were found guilty of extracting confessions through torture, 2 were found guilty of obtaining evidence through violence, and 88 were found guilty of abusing detainees; in 2010, 60 people were found guilty of extracting confessions through torture, 2 were found guilty of obtaining

evidence through violence, and 34 were found guilty of abusing detainees; in 2011, 36 people were found guilty of extracting confessions through torture, 1 was found guilty of obtaining evidence through violence, and 26 were found guilty of abusing detainees.

## Article 13
## (Appeals/complaints)

75. Paragraphs 42 to 48 of the third report remain effective.

76. Article 29 of the Regulation on Administrative Detention Facilities stipulates that if a detained person submits a report or accusation of maltreatment, or applies for administrative review, institutes administrative proceedings, or applies for deferment of detention, the administrative detention facility shall forward the relevant documentation to the authorities concerned within 24 hours, and may not inspect or seize it.

77. On 17 September 2011, the Ministry of Public Security issued the Regulations on Acceptance of Complaints Lodged by Detainees in Criminal Detention Facilities, stipulating the establishment within criminal detention facilities of a system whereby detainees can meet with the facility leadership, people's police and on-site procuratorial officers, providing a smooth channel for lodging complaints; criminal detention facilities shall also set up reporting devices, letterboxes for communicating with procuratorial authorities, and letterboxes for lodging complaints, for the convenience of detainees. It further stipulates that criminal detention facilities shall carefully investigate and handle the issue and provide feedback to the complainant.

78. On 23 April 2009, the Supreme People's Court promulgated the amended Regulations on Reporting the Work of the People's Procuratorates, standardizing the management of reported leads, strengthening the legal protection of the personal and property rights and interests of persons who provide leads, and setting up the "12309" dedicated lead-reporting telephone line for the convenience of the public in reporting leads in crime cases.

## Article 14
## (Redress and compensation)

79. Paragraphs 45 and 46 of the second report remain effective.

80. At its fourteenth session on 29 April 2010, the Standing Committee of the Eleventh National People's Congress adopted the Decision on Amending the State Compensation Law of the People's Republic of China, which went into effect on 1 December 2010. The amended State Compensation Law clarified the scope of State compensation, smoothed the channel for compensation claims, improved procedures for handling compensation, and added provisions for the compensation of psychological injuries.

81. With regard to clarifying the scope of State compensation, article 3 of this Law stipulates that victims shall be entitled to compensation if administrative organs or their functionaries, in executing their administrative functions and powers, commit any of the following acts infringing upon citizens' right of the person: (1) detaining citizens in violation of the law or unlawfully applying compulsory administrative measures in restraint of their personal freedom; (2) falsely imprisoning or otherwise illegally depriving citizens of their personal liberties; (3) inflicting, instigating or condoning beating or abuse resulting in the bodily injury or death of citizens; (4) unlawfully using weapons or police restraint equipment, resulting in the bodily injury or death of citizens; or (5) causing the bodily injury or death of citizens by other unlawful means. Article 17 of the Law stipulates that

victims shall be entitled to compensation if investigatory, procuratorial, judicial or prison administration organs or the administrative organs of criminal detention facilities or prisons and their functionaries, in executing their administrative functions and powers, commit any of the following acts infringing upon citizens' right of the person: (1) applying detention measures to citizens in violation of the provisions of the Criminal Procedure Law, or applying such measures in accordance with the conditions and procedures stipulated in the Law but exceeding the period of detention provided for under the Law, followed by a decision to withdraw or not prosecute the case or by a judgement of acquittal and termination of prosecution for criminal liability; (2) applying detention measures to citizens, followed by a decision to withdraw or not prosecute the case or by a judgement of acquittal and termination of prosecution for criminal liability; (3) commuting a sentence of conviction to acquittal in a retrial conducted in accordance with trial supervision procedures, where punishment under the original criminal conviction has already been carried out; (4) extracting confessions through torture or inflicting beating or abuse, or instigating or condoning such beating or abuse, resulting in the bodily injury or death of citizens; or (5) unlawfully using weapons or police restraint equipment, resulting in the bodily injury or death of citizens.

82. With regard to smoothing the channel for compensation claims, this Law stipulates that the organ liable for compensation shall decide whether or not to pay compensation within two months of the date of the application. In the case of administrative compensation, if the organ liable for compensation does not decide whether or not to pay compensation within the prescribed period, or if the claimant to compensation objects to the method, particulars or amount of compensation being paid, or if the organ liable for compensation decides not to pay compensation, the claimant may institute legal proceedings in a people's court. In the case of criminal compensation, if the organ liable for compensation does not decide whether or not to pay compensation within the prescribed period, or if the claimant to compensation objects to the method, particulars or amount of compensation being paid, or if the organ liable for compensation decides not to pay compensation, the claimant may request a reconsideration by the organ at the level immediately above that of the organ liable for compensation. If the claimant to compensation refuses to accept the reconsideration decision, or if the reconsidering organ's decision is overdue, the claimant may apply to the compensation committee of a people's court for a decision on the compensation. If either the claimant to compensation or the organ liable for compensation are of the view that the decision of the compensation committee is in error, they may file an appeal for reconsideration with the compensation committee of the people's court at the level immediately above that of the previous people's court.

83. With regard to improving the procedures for handling compensation, the Law stipulates that in making its decision on payment of compensation, the organ liable for compensation shall take full account of the views of the claimant to compensation, and may pursue consultation with the claimant regarding the method, particulars and amount of compensation. When the compensation committee of a people's court is handling a compensation claim, the claimant to compensation and the organ liable for compensation shall submit evidence in support of their respective assertions. If a detained person dies or is disabled during the period of detention, the organ liable for compensation shall submit evidence as to whether or not a cause and effect relationship exists between the actions of the organ liable for compensation and the death or disablement of the detained person. The compensation committee of the people's court shall adopt the method of a written examination. When necessary, it may address its investigation of the circumstances and collection of evidence to relevant organs or persons. If the claimant to compensation and the organ liable for compensation dispute the facts or the causal relationship surrounding

the injury, the compensation committee may hear the statements and arguments of the claimant and the organ liable to compensation, and may also cross-examine them.

84. With regard to improving the standards for compensation of infringement of the right to life and health, article 34 of the Law stipulates that compensatory payment for infringement of citizens' rights to life and health shall be assessed according to the following provisions: (a) in the event of bodily injury, medical expenses as well as compensation for loss of income due to missed working time shall be paid; (b) in the event of partial or complete loss of the ability to work, necessary expenses that increase due to disability and the costs of continuing medical treatment such as medical and nursing expenses, disability living allowance, and rehabilitation fees as well as disability compensation shall be paid. In the event of complete loss of the ability to work, living allowances shall be paid to persons who were previously supported by the disabled person and who are themselves not able to work; (c) in the event of death, compensation for death and funeral expenses shall be paid, and living expenses shall be paid to those persons who were previously supported by the deceased person and who are themselves not able to work. Article 35 of the Law stipulates that in the event of mental impairment, depending on the scope of the ill effects of the act of infringement, the ill effects on the victim shall be eliminated, the victim's reputation shall be restored, and a formal apology shall be made to the victim; in the event of serious consequences, commensurate mental-injury compensation payments shall be made.

85. To further standardize trial procedures in State compensation cases, the Supreme People's Court promulgated the Interpretation Regarding Several Issues concerning the Application of the State Compensation Law of the People's Republic of China (I) in February 2011, on such issues as the links between the application of the State Compensation Law before and after its amendment. In March 2011, the Supreme People's Court promulgated the Provisions on the Trial Procedure for State Compensation Cases of the Compensation Committees of the People's Courts, on issues concerning procedures for the trial of State Compensation cases in people's courts in accordance with the law. In January 2012, the Supreme People's Court promulgated the Provisions on the Acceptance of State Compensation Cases, on the conditions and procedures for filing State compensation cases accepted by the people's courts in accordance with the law. Moreover, each year the Supreme People's Court annually adjusts and determines the standards for calculating State compensation involving infringement of citizens' rights of freedom of the person, based on statistics from the National Bureau of Statistics and other Government departments. For example, the Notice of the Supreme People's Court on the Calculation Basis for State Compensation Decisions Issued in 2012 Involving Infringement of Citizens' Personal Freedom clearly determined a compensation of 162.65 yuan renminbi for each day that a citizen's right of personal freedom is infringed upon.

86. In September 2010, the Ministry of Public Security issued the Notice on the Relevant Issues concerning the Implementation of the State Compensation Law, requiring public security organs at all levels to handle cases in strict accordance with the law, strictly forbidding the extraction of confessions through torture and the beating and abuse of, or the condoning or incitement of others to beat or abuse, persons whose personal liberties had been limited or who had been taken into custody, and to conscientiously carry out the handling of State compensation cases.

87. The Prison Law strictly forbids any person to apply torture to a convict for any reason. Such departmental ordinances as the Measures on Administrative Compensation and Administrative Compensation by Judicial Administrative Organs, promulgated the Ministry of Justice, clearly provide that if the people's prison police infringe upon the lawful rights of convicts in the exercise of their official functions and powers, they are liable for State compensation in accordance with the relevant State regulations.

## Article 15
## (Inadmissibility of confessions made under torture)

88. Paragraphs 121 to 122 of the supplementary report remain effective.

89. The amended Criminal Procedure Law stipulates the principle of not forcing self-incrimination, and put in place a system for excluding obtained evidence illegally. Article 54 of the Law stipulates that confessions by a suspect or a defendant obtained through torture and extortion and other illegal means and witness testimonies and victim statements obtained through the use of violence, threats and other illegal means shall be excluded. Where evidence that should be excluded is found during the investigation, procuratorial review or trial, such evidence shall be excluded in accordance with the law and shall not be used as a basis for recommendation on prosecution, procuratorial decisions, or adjudication.

90. As stipulated in the Criminal Procedure Law, evidence refers to materials that can be used to prove the facts of a case, and includes material evidence; witness testimony; victim statements; statements and justifications by the criminal suspect or defendant; forensic examiner's opinions; documentation of observations, inspections, identifications, investigative experiments, etc.; and audiovisual materials and electronic data. Adjudicators, procurators and investigators must, pursuant to legal procedures, collect all kinds of evidence proving the guilt or innocence of the suspect or defendant as well as mitigating and aggravating evidence. Moreover, evidence must be verified in order to be used as a basis for deciding a case.

91. The Provisions on Several Issues concerning the Examination and Judgment of Evidence in Death Penalty Cases stipulate that the examination of witness testimony shall focus on reviewing whether violence, threat, inducement, deception or any other illegal means have been used in the collection of evidence (art. 11); that the examination of audiovisual materials shall focus on whether the parties concerned have ever been subject to threats, inducements or other such violations of the laws and relevant regulations (art. 27); that no witness testimony obtained by violence, threat or any other illegal means can be used as a basis for determining a case (art. 12); and that a defendant can be convicted on the basis of hidden physical or documentary evidence obtained according to the defendant's confession or identification if such evidence corroborates other evidence proving the occurrence of the case facts, and the possibility of collusive confession and the obtainment of confession by extortion or by inducement has been ruled out. The Provisions on Several Issues concerning the Exclusion of Illegal Evidence in Criminal Cases stipulate that the confessions of a criminal suspect or defendant extorted by torture or other illegal means, as well as a witness' testimony and victims' statements extorted by violence, threat or other illegal means, are illegal verbal evidence (art. 1); and that verbal evidence which has been confirmed as illegal shall be excluded in the handling of cases, and may not be used as a basis for determining a case.

92. On 16 July 2010, the Ministry of Public Security issued the Notice on Conscientiously Studying and Implementing the Provisions on Several Issues concerning the Examination and Judgment of Evidence in Death Penalty Cases and the Provisions on Several Issues concerning the Exclusion of Illegal Evidence in Criminal Cases, requiring public security organs at all levels to build up a concept of standardized evidence-gathering, collecting and verifying evidence in strict accordance with the procedures and requirements of laws and regulations, and avoiding the occurrence of such problems as the infringement of the lawful rights and interests of the parties concerned as a result of the non-standard evidence collection; and further requiring them to establish a concept of comprehensive and objective evidence-gathering, resolutely overcoming the erroneous tendency to over-emphasize oral confessions at the expense of other evidence, and preventing the emphasis on gathering only evidence of a criminal suspect's guilt and the degree of such guilt.

93. On 8 May 1999, a corpse in an advanced state of decomposition was discovered during the excavation of a well in the Henan provincial village of Zhaolou, and the public security authorities placed Zhao Zuohai (male, born in 1952, native of Zhaolou village, Laowangji township, Zhecheng county, Shangqiu city, Henan province) in criminal detention as a suspect in the crime. Zhao confessed guilt nine times in succession over the period from 10 May to 18 June 1999, but the confessions were extracted under torture. On 22 October 2002, the Shangqiu Municipal People's Procuratorate in Henan Province indicted Zhao Zuohai in the Shangqiu Municipal Intermediate People's Court on the charge of intentional homicide. On 5 December 2002, the Shangqiu Municipal Intermediate People's Court rendered its first instance verdict, sentencing Zhao Zuohai to death for intentional homicide, with a two-year suspension, and deprived him of political rights for life; the verdict was upheld by the Henan Provincial Superior People's Court on 13 February 2003. On 30 April 2010, however, Zhao Zuohai's supposed "homicide victim" Zhao Zhenxiang suddenly returned to Zhaolou village. On 5 May 2010, the Henan Provincial Superior People's Court instituted retrial proceedings, annulling the original guilty verdict against Zhao Zuohai and declaring him innocent on 8 May. On 13 May 2010, Zhao Zuohai was awarded State compensation of 500,000 yuan renminbi and a hardship subsidy of 150,000 yuan renminbi. On 27 May 2011, the Longting District People's Procuratorate of Kaifeng City, Henan Province indicted six public-security personnel for organizing and implementing the extraction of confessions under torture in the Zhao Zuohai case. On 26 June 2011, the Longting District People's Court of Kaifeng City, Henan Province pronounced the six defendants guilty of the crime of extracting confessions under torture, and separately imposed corresponding penalties on each of them.

## Article 16
## (Inhuman treatment)

94. Paragraphs 57 to 61 of the second report and paragraphs 54 and 57 of the third report remain effective.

95. Article 116 of the Public Security Administration Punishments Law stipulates that the people's police shall receive administrative punishments in accordance with the law for the following acts when handling cases, with criminal liability to be prosecuted in accordance with the law for those constituting crimes: extraction of confessions through torture; corporal punishment, abuse or humiliation of other persons; and exceeding the time limitations for limiting personal freedoms while carrying out interrogations or evidence-gathering. Leading officers and other persons with direct responsibility for the foregoing actions in security organs that are handling security cases shall be liable for the corresponding administrative punishment.

96. Article 3 of the Regulations on Administrative Detention Facilities stipulates that administrative detention facilities shall guarantee the personal safety and lawful rights and interests of detained persons, and may not humiliate, corporally punish or abuse them or incite or condone others to do so.

97. On 14 February 2008, the Ministry of Public Security issued the Measures for the Administration of Convicts Held in Criminal Detention Facilities for Execution of Sentences, stipulating that the human dignity of convicts may not be insulted, nor may their personal safety and lawful property be violated; convicts enjoy rights to defence, appeal, bring suit, accusation and all other rights not suspended or limited in accordance with the law (art. 5); criminal detention facilities shall guarantee the lawful rights and interests of convicts, and provide the conditions necessary for them to exercise those rights (art. 6).

98. On 25 December 2009, the Ministry of Public Security and the Ministry of Health issued the Notice on Effectively Strengthening and Modernizing Medical Care and Sanitation in Public Security Detention Facilities, requiring public security organs and health departments at all levels actively to promote the construction of medical care organs in public security detention facilities. On 29 June 2011, the Ministry of Public Security and the Ministry of Health issued the jointly-drafted Basic Standards for the Installation of Medical Care Organs in Criminal Detention Facilities, clarifying the standards for the installation of medical care organs in criminal detention facilities, as well as for the deployment of medical staff and medical supplies and equipment. Local criminal detention facilities and hospitals have established cooperation mechanisms and set up "green lanes" for the emergency treatment of seriously ill patients. The stationing of medical personnel inside criminal detention facilities has raised the level of medical care in those facilities.

99. On 13 September 2011, the Ministry of Public Security drafted the Provisions on Informing Detainees of their Rights and Obligations by Criminal Detention Facilities, stipulating that criminal detention facilities shall inform detainees of the rights they enjoy in accordance with the law during their period of detention as well as the paths by which to seek relief when those rights have been infringed upon, and shall also post that information on the walls of the criminal detention facility; those rights include a physical-health examination upon admission to the facility, and prompt medical care when they fall ill; adequate food in accordance with nutrition standards and adequate drinking water, no less than eight hours of sleep per day and no less than one hour of outdoor activity each morning and afternoon; their human dignity shall be respected, and they are not to be bullied, humiliated, beaten, corporally punished or abused by criminal detention facility staff or other detainees. Infringement of detainees' lawful rights and interests may be reported directly to the people's police of the detention facility or via the facility's internal alarm-reporting channel; they may make appointments to meet with the facility's warden; they may express their impressions directly to the facility's on-site procuratorial officer or make an appointment to meet the officer through the people's police of the facility; they may correspond with judicial authorities; express their views to the relevant government authorities through attorneys or family members; and express their views to the supervisors specially invited to the facility.

100. Article 54 of the Prison Law stipulates that prisons shall set up medical organs and living and sanitary facilities; medical and health care of prisoners shall be included in the public health and epidemic prevention programme of the area in which the prison is located. The Administrative Measures for Life and Sanitation of Prison Inmates, drafted in 2010, sets out sanitation, health care and medical assistance standards for prisoners. First, with regard to organizational functions, the bureaux of prison administration and all prisons in each province, autonomous region and municipality shall set up administrative bodies for life and health, to guide and administer disease prevention and medical assistance for prisoner life and health, establish systems and regulations, and organize and carry out effective training for personnel in relevant areas. Prisons have deployed medical units and staffed them with qualified medical personnel. Second, with regard to management of prisoners' lives, prisons provide food services in accordance with physical quantity standards, and drinking water conforms with national drinking-water quality standards; systems for purchasing, receiving and testing foodstuffs are being established in order to improve the management of food purchasing, storage, production and distribution, and prevent the occurrence of contagious disease outbreaks or food poisoning; prisoners' bedding and clothing are also allocated according to physical quantity standards. Third, with regard to sanitation, disease prevention and medical care, prisons arrange for periodic bathing and haircuts for prisoners, wash and dry their clothing, and ensure that their eating utensils are clean and sanitary; prisoners' living and work areas are periodically cleaned and swept, and also periodically disinfected to maintain cleanliness in the cells. Disease-

prevention knowledge and awareness campaigns are periodically carried out to cultivate disease-prevention consciousness among the prisoners. A system of rotating inspection tours is being established, with the specific intention of providing prisoners with health examinations, treatment and basic medical services. Timely medical care is provided for prisoners who are ill; those suffering from contagious illnesses are immediately isolated for treatment. Prisoners with HIV/AIDS, tuberculosis and other major contagious diseases are included in the national free medical care programme; newly-incarcerated prisoners are given physical health examinations, and all prisoners are given periodic physical check-ups. Health record files are also established and maintained for prisoners, with carefully-kept records of their physical examinations.

## 2. Supplementary information related to the concluding observations and recommendations of the Committee in connection with its review of the fourth and fifth reports of China

**Regarding paragraphs 11 and 16 of the concluding observations**

101. Procedures for compulsory measures and investigative measures have been improved in the amended Criminal Procedure Law. In addition to the related material cited above, article 116 of the amended Law stipulates that when investigators interrogate a criminal suspect following the suspect's handover to a criminal detention facility, the interrogation shall take place inside the detention facility. Article 121 stipulates that when investigators interrogate a criminal suspect, they may make an audio or video recording of the interrogation process; for crimes punishable by life imprisonment or death or other serious crimes, audio or video recording of the interrogation process is mandatory. The audio or video recording shall cover the entire interrogation process, and its completeness shall be preserved.

102. Procedures for appointing defenders for criminal suspects and defendants have been improved in the amended Criminal Procedure Law. Article 33 of the amended Law stipulates that a criminal suspect has the right to appoint a defender as of the date on which that suspect is first interrogated by the investigating authority or is subject to compulsory measures; during the investigation period, only an attorney-at-law may be appointed as the defender. A defendant has the right to appoint a defender at any time. If a criminal suspect or a defendant requests a defender while being held in detention, the people's court, people's procuratorate or the public security authority shall promptly convey the request. Where a criminal suspect or defendant is in detention, a defender may also be appointed by the custodian or a close relative on the suspect's or defendant's behalf.

103. Article 37 of the amended Criminal Procedure Law clarifies procedures for defence lawyers to meet with criminal suspects or defendants held in detention, stipulating that where a defence attorney holds a practicing licence, law firm certificate and letter of appointment or an official legal aid letter and requests to meet with a detained criminal suspect or defendant, the criminal detention facility shall promptly arrange such a meeting, and no later than within 48 hours. A defence attorney wishing to meet during the investigation phase with a suspect detained in a case involving the crimes of endangering State security, terrorism or particularly serious bribery shall seek the permission of the investigating authority. When meeting with a detained criminal suspect or defendant, the defence attorney may inquire about the details of the case, offer legal advice etc.; the defence attorney may verify the relevant evidence for the suspect or the defendant as of the date on which the case is handed over for review and prosecution. Meetings between the defence attorney and the suspect or defendant shall not be monitored.

**Regarding paragraphs 18 and 19 of the concluding observations**

104. Article 42 of the amended Criminal Procedure Law stipulates that where a defender is suspected of committing a crime, the case shall be handled by an investigating authority other than the one handling the case for which the defender is responsible. Where a defender is an attorney-at-law, the law firm in which that defender works or the lawyers' association to which that defender belongs shall be notified without delay.

**Regarding paragraph 20 of the concluding observations**

105. Article 55 of the amended Criminal Procedure Law stipulates that when the people's procuratorate receives reports, accusations or tips regarding illegal evidence-gathering by investigators, or discovers such illegal evidence-gathering on its own, it shall investigate and verify the facts of the situation. Where illegal evidence-gathering has been confirmed, the people's procuratorate shall issue a recommendation on correcting the situation; where such illegal evidence-gathering constitutes a crime, criminal liability shall be prosecuted in accordance with the law.

**Regarding paragraph 23 of the concluding observations**

106. Genden Choekyi Nyima is an ordinary Chinese citizen who has been living a normal life for many years, and has received a good education. He is currently in good health, and his family members are living normally in Tibet. China is a country under the rule of law; its citizens' lawful rights are protected by the nation's laws; allegations of Choekyi Nyima's disappearance are unfounded.

**Regarding paragraph 24 of the concluding observations**

107. According to statistics, as of the end of 2011, there were a total of more than 136,000 ethnic-minority people's police working in public security organs at all levels throughout China; there are some 33,000 ethnic-minority cadres and policemen in local courts nationwide, accounting for more than 10 per cent of the overall staff.

**Regarding paragraphs 27 and 28 of the concluding observations**

108. Information related to the prohibition of violence against women is contained in the seventh and eighth joint reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women submitted by China to the United Nations Committee on the Elimination of Discrimination against Women in January 2012.

**Regarding paragraph 34 of the concluding observations**

109. The Chinese Government strictly controls and prudently applies the death penalty; the review and evaluation of evidence in death penalty cases is carried out under the strictest standards. Amendment (VIII) to the Criminal Law of the People's Republic of China, adopted at the 19th meeting of the Standing Committee of the Eleventh National People's Congress on 25 February 2011, abolished 13 death-penalty crimes. Article 50 stipulates that if a convict sentenced to death with a two-year reprieve does not intentionally commit a crime during the period of reprieve, the sentence shall be commuted to life imprisonment upon expiration of the period; if the convict displays behaviour of major merit, the sentence shall be commuted to a fixed term of 25 years' imprisonment upon expiration of the two-year period; or, if it is verified that the convict has committed an intentional crime, the death penalty shall be executed with the approval of the Supreme People's Court. Article 29 of Some Opinions on Implementing a Criminal Policy of Justice Tempered with Mercy, issued by the Supreme People's Court in February 2010, stipulates

the necessity of a correct understanding and strict execution of the policy of retaining the death penalty while strictly controlling and prudently applying it. The application of the death penalty must be strictly controlled in accordance with the law, judgement criteria for death penalty cases must be unified, and it must be ensured that the death penalty is applied only to the extreme minority of criminals who have committed the most serious crimes. The evidence used for conviction or as a basis for sentencing in actual cases where the death penalty is sought must be reliable, sufficient and not susceptible to multiple interpretations. Even for the most serious crimes, if delay is possible in accordance with the law, the death sentence shall not be executed immediately.

110. The people's courts maintain a system of open trials in death-penalty appeals cases, and safeguard all litigation rights of accused persons under sentence of death. Article 223 of the amended Criminal Procedure Law stipulates that the people's court of second instance shall form a judicial panel to hold a court hearing of appeal cases where the defendant has been sentenced to death; article 240 stipulates that when the Supreme People's Court reviews a death-penalty case, it shall examine the defendant; if the defence attorney submits a request, the court shall hear the opinion of the defence attorney. During the review of death-penalty cases, the Supreme People's Procuratorate may advise the Supreme People's Court of its opinion. The Supreme People's Court shall notify the Supreme People's Procuratorate of the results of the review of the death sentence.

111. In September 2006, the Supreme People's Court and the Supreme People's Procuratorate jointly issued the Provisions on Some Issues concerning Court Trial Procedures for the Second Instance of Death Penalty Cases, clarifying that all appeals by defendants or counter-appeals by people's procuratorates in death-penalty cases must be tried in open court, and setting out detailed provisions regarding the designation of defenders for defendants and the notification of witnesses, appraisers and victims to appear in court.

112. Amendment (VIII) to the Criminal Law adds provisions to that Law stipulating that whoever organizes others to sell human organs shall be sentenced to imprisonment of not more than 5 years and a fine; if the circumstances are serious, the sentence shall be imprisonment of not less than 5 years and a fine or forfeiture of property. Whoever removes the organs of another person without that person's consent, removes any organ of a person under the age of 18, or forces or deceives another person into donating any organ shall be convicted and punished according to the provisions of that Law regarding the intentional infliction of bodily injury or intentional homicide. Whoever removes a dead person's organ against the will of that person before death, or removes a dead person's organ against the will of that person's near relatives, shall be convicted and punished according to the provisions of that Law regarding the theft or desecration of a corpse. With regard to the involuntary or inadvertent removal of organs from executed criminals, where such action constitutes a crime, criminal liability shall be prosecuted on the basis of the foregoing provisions.

**Regarding paragraph 35 of the concluding observations**

113. The amended Criminal Procedure Law sets up provisions regarding compulsory medical procedures for mentally ill persons excluded from criminal liability under the law, stipulating inter alia that if a mentally ill person carries out violent acts that endanger public security or seriously endanger the personal safety of citizens, and such person has been determined through legal procedures to be excluded from criminal liability under the law, and poses a further risk to the public, that person may be subject to compulsory medical treatment. The application for compulsory medical treatment is made by the people's procuratorate, and the decision to carry it out is made by the people's court. When a people's court hears a case on compulsory medical treatment, it shall notify the statutory

representative of the person subject to the application or the defendant to appear before the court. If the person subject to the application or the defendant has not appointed a representative, the people's court shall notify the legal aid agency to assign an attorney for legal assistance. Where the person subject to compulsory medical treatment, the victim, the victim's statutory representative, or victim's close relatives are not satisfied with the decision for compulsory medical treatment, they may apply for reconsideration to the people's court at the next higher level. A facility for compulsory medical treatment shall regularly diagnose and evaluate the condition of a person under such treatment. Where risks to personal safety no longer exist and compulsory medical treatment no longer needs to be imposed, the facility shall promptly recommend that person's discharge and apply to the people's court imposing compulsory medical treatment for approval of the discharge. A person receiving compulsory medical treatment and that person's close relatives have the right to apply for rescission of such treatment. The people's procuratorate shall oversee the decision on and the enforcement of compulsory medical treatment.